

**THE COUNCIL OF ORGANIZATIONAL REPRESENTATIVES**  
ON NATIONAL ISSUES CONCERNING PEOPLE WHO ARE DEAF OR HARD OF HEARING

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**RECEIVED**

March 27, 1998

MAR 27 1998

Ms. Magalie R. Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**DOCKET FILE COPY ORIGINAL**

Re: In the Matter of Closed Captioning and Video  
Description of Video Programming, MM Dkt. No. 95-176

Dear Ms. Salas:

Enclosed are an original and six copies of the Reply of the Council of Organizational Representatives on National Issues Concerning People Who Are Deaf or Hard of Hearing to the Further Notice of Proposed Rulemaking in the above docketed proceeding.

Sincerely,

*Keith Muller*

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Closed Captioning and Video )  
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 ) MM Docket No. 95-176  
Implementation of Section 305 of the )  
Telecommunications Act of 1996 )  
 )  
Video Programming Accessibility )

**REPLY COMMENTS OF  
THE COUNCIL OF ORGANIZATIONAL REPRESENTATIVES  
ON NATIONAL ISSUES CONCERNING  
PEOPLE WHO ARE DEAF OR HARD OF HEARING  
TO FURTHER NOTICE OF PROPOSED RULEMAKING**

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**I. Introduction**

The Council of Organizational Representatives on National Issues Concerning People who are Deaf or Hard of Hearing (COR)<sup>1</sup> submits these reply comments in response to the Federal Communication Commission's (FCC or Commission) Further Notice of Proposed Rulemaking (FNPRM) in the above docketed proceeding on captioning televised emergency information.

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<sup>1</sup> The following members of COR support these comments: Alexander Graham Bell Association for the Deaf, American Academy of Audiology, American Society for Deaf Children, American Speech-Language-Hearing Association, Caption Center, Conference of Educational Administrators Serving the Deaf, Convention of American Instructors of the Deaf, League for the Hard of Hearing, National Association of the Deaf, Registry of Interpreters for the Deaf, Self Help for Hard of Hearing People, Inc., and Telecommunications for the Deaf, Inc.

COR is a coalition of national organizations that are committed to improving the lives of individuals who are deaf or hard of hearing. Constituencies of COR organizations provide a variety of services, including technological and telecommunications services, educational programs, social and rehabilitation services, support groups and self-help programs, diagnosis and treatment including fitting of assistive devices/technology, and general information on other services for deaf and hard of hearing consumers. Among other things, COR serves as a bridge among interested organizations, the general public, and the community of people with disabilities on matters concerning deaf and hard of hearing individuals. COR has previously participated in the Commission's proceedings on closed captioning, and thanks the Commission for taking this additional step to ensure immediate access to emergency programming.

## **II. The Need for Access to Televised Emergency Information Has Been Well Established**

Some of the commenters to this proceeding raise questions about the need for a Commission rule requiring access to televised emergency information. Specifically, the National Association of Broadcasters (NAB) alleges that [t]here is no evidence before the Commission that indicates that essential emergency information has not been provided to deaf and hard of hearing viewers." NAB Comments at 5, and further states that [t]he Commission alludes to only one instance [in its FNPRM] where visual emergency information was claimed to be inadequate." Id. at 2. The NAB is mistaken, as the record is already replete with instances where televised emergency information has not been provided in a visual form. In its comments to the FNPRM, the National Association of the Deaf (NAD) has referred to "[e]ndless complaints from consumers who have not had such access," and the fact that the failure to provide such access has "resulted in serious and irreversible consequences for these individuals." Comments of the NAD at 2-3.

Similarly, other commenters to this proceeding submitted evidence of the failure of television stations to consistently make emergency information visually accessible. See e.g., Comments of Stavros Center for Independent Living, Inc. (Stavros) (Massachusetts nuclear waste spills, chlorine spills, tornado warning, school floods, winter storms); Comments of Caption Colorado, Inc. (Sacramento, CA severe flooding); Comments of Caption Reporters (Oklahoma bombing); Comment of Lee Nettles (Massachusetts train derailment/chemical leak, water contamination from main water pipe break); Comment of Thomas Mayes (Florida hurricane, San Fernando Valley earthquake); Comment of Arva Priola (Fredricksburg tornado); Comment of Heidi A. Sherrie (Denver blizzard). These and other reports more than support the extreme need for the Commission to require real time access to all emergency programming.

COR can also attest, based on feedback from our members, to the need for rules requiring access to televised emergency information throughout the United States. Consistently, over the past several decades, information about local emergencies has been broadcast without captions or other visual means, leaving individuals who are deaf and hard of hearing to guess as to how they can protect their health and safety. Indeed, this is one of the reasons that consumers, in comments to the FCC's Notice of Proposed Rulemaking in the captioning docket, emphatically urged the FCC to require real time captioning, rather than electronic news reporting, of local news programming. Up-to-the-minute information about emergencies and other community events simply has not been available to deaf and hard of hearing consumers throughout most of the country.

A few video providers commenting in this proceeding point to the availability of visual access requirements under the FCC's Emergency Broadcasting System (EBS) and the Emergency

Alert System (EAS) as reason not to take any further Commission action on this issue. See e.g., Comments of the National Cable Television Association at 7; CBS at 7. However, as the Commission itself notes, both EBS and EAS are required for national emergencies only, FNPRM at 7, n.21; many local stations choose not to use these systems, and consequently choose not to provide text, when reporting local emergencies. Moreover, it is not clear that either of these systems would apply with respect to information that is typically provided in news programming *subsequent* to the actual announcement that an emergency exists - i.e., news programming that contains the “nuts and bolts” about obtaining assistance in the event of an emergency. In addition, as currently written, the requirement to provide EAS in both video and audio forms does not apply to cable stations serving fewer than 5000 subscribers. For these various reasons, reliance on the EBS and EAS rules for full and complete access to emergency information provided in televised programming is inappropriate.

### III. Consumers Unanimously Agree on the Need for Expedited Requirements for Emergency Programming

In its FNPRM, the Commission asks whether it should require captioning on emergency programming ahead of its eight year schedule for the captioning of all other new programming. FNPRM at ¶12. Consumers responding to this inquiry uniformly urged the Commission to give emergency programming priority over other programming. Comments of Self Help for Hard of Hearing People, Inc. (SHHH) at 2; Comments of NorCal Center on Deafness at 1; Comments of Telecommunications for the Deaf (TDI) at 3; Comments of the NAD at 3; Comments of Stavros at 2; Comments of Access to Independence and Mobility at 1.

We agree, and urge the Commission to adopt the suggestion of the NAD that real time access to emergency information be provided nationwide no later than November 1, 1998. See Comments of the NAD at 3. Individuals whose life, health, and safety are at stake should not have to wait until the completion of an eight year transition period to obtain access to this emergency information; far too much time has passed without access to this information already.

Accordingly, we urge that the requirements developed in this proceeding be applicable to all entities covered by Section 713 of the Communications Act, regardless of whether such entities meet other benchmarks during the eight year captioning transition schedule.

Similarly, COR opposes an exemption for program providers who might otherwise be exempt because (1) they have annual gross revenues of under \$3 million or 2) they have already spent an amount equal to 2% of their gross annual revenues on captioning. See FNPRM at ¶13. The costs of remote captioning are insignificant. See Comments of Caption Colorado. But more importantly, access to emergency programming goes to one's very survival. This is not a "benefit" that should be weighed against any costs. Rather, it is a right that should be granted unconditionally.

#### IV. The Definition of "Emergency" Should be Broad Enough to Include the Preservation of Life and Property

Where emergency information has been provided in a visual format, it has usually been in the form of an open crawl during a break in programming. Even where - typically under EBS - stations have provided such access, however, more often than not, they have failed to make accessible the emergency information that follows these video interrupts during subsequent news programming. Such news programming typically offers updates and instructions as to when,

where, and how to obtain assistance in coping with the reported emergency. For example, such information has informed viewers about roads to avoid, shelters available, methods of avoiding food and water contamination, closings of buildings, and other instructions on how best to respond to the emergency conditions. In defining “emergency information” for the purposes of the proposed accessibility requirement, the Commission should take care to ensure that the scope of what must be visually accessible includes such follow-up information. Several definitions of “emergency” proposed in comments to the FNPRM may accomplish this goal. We support any one of these: “information that has an immediate bearing on the lives, health or safety of individuals within a community” (Comments of NAD at 7); “safety-related information having an immediate and direct relation to the preservation of life or property” (Comments of The Weather Channel at 15); “information which is of timely decisional value to the public in furthering the safety of life and property” (Comments of ABC at 4).

**V. Real Time Access to Televised Emergency Information is Critical**

We agree with the FCC that “any textual presentation of emergency information programs should be required to incorporate substantially the entire text of the audio portion of the program.” FNPRM ¶12. The FCC asks how to accomplish this goal, and specifically requests input on whether there are other methods of visually presenting emergency information in lieu of a closed captioning requirement. In response, ABC, Inc. has noted that the FCC’s existing EBS rules allow television broadcasters to choose the actual method of visually displaying the emergency information. Toward this end, ABC, Inc. seems to suggest that a broadcaster should be able to satisfy its obligations by displaying information “graphically with diagrams or maps, alone or with explanatory text.” Comments of ABC at 3.



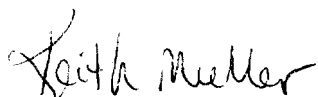
Although graphics may serve as an aid to understanding information about an emergency for both hearing and hearing disabled individuals, standing alone, graphics are typically insufficient to provide a complete accounting of an emergency and the proper response to that emergency. Rather than create a rule that relies solely on graphics and other secondary methods of visually displaying emergency information, we urge the FCC to promulgate a rule that ensures a textual presentation of emergency information that does in fact replicate the full audio version of that information. This can be accomplished now through remote captioning, an inexpensive and effective means of providing real time captioning as described in the comments submitted by Caption Colorado, and in the future, hopefully through speech recognition. See e.g., Comments of TDI at 2; Comments of Stavros (Laferriere) at 1. We urge as well, that the Commission's final rule prohibit captions from blocking open character generated announcements containing emergency information, and that open character generated announcements not be permitted to block captions containing emergency information.

## V. Conclusion

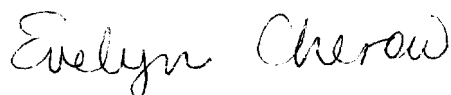
Emergency access is of the highest priority for deaf and hard of hearing individuals. To date, access to emergency information has fallen short of meeting the needs of these communities. We strongly urge the Commission to expedite the completion of this proceeding so that full, immediate, and real time access to all emergency programming can be swiftly achieved. COR applauds the Commission's efforts to achieve this result and thanks the Commission for the

opportunity to provide these comments.

Respectfully submitted,



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